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Special Taxes

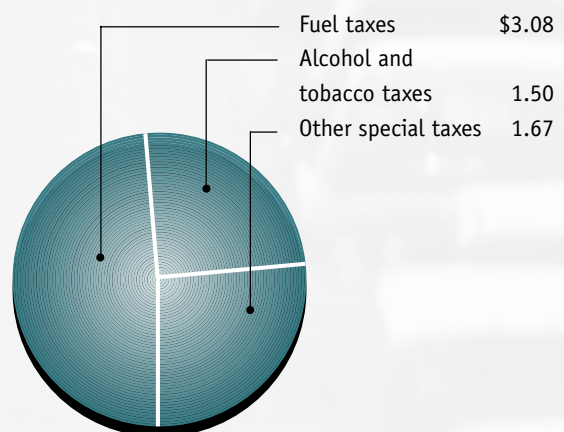
In 1999-00, the Board administered 17 tax and fee programs in addition to property taxes and sales and use taxes. The oldest of these is the insurance tax, established in 1911. The newest program, the ballast water management fee, went into effect on January 1, 2000. Revenues from the insurance tax and alcoholic beverage tax and a portion of cigarette tax receipts are allocated to the state's General Fund. Other special taxes program revenues fund specific state services, from transportation infrastructure to health education. The Board administers several programs in cooperation with other state agencies.

Revenues

Revenues collected for all special taxes programs totaled \$6.26 billion in 1999-00. Fuel taxes totaled \$3.08 billion, while alcohol and tobacco taxes produced \$1.50 billion for the year. Revenue information for each program is found in the next section of this chapter and in the foldout chart inside the back cover of this report. Revenues from the insurance tax, collected by the State

1999-00 Special Taxes Revenues

Billions of Dollars



Controller's Office, are included in the total special taxes revenue figure above, but are not included in the total Board revenue figures found elsewhere in this report.

Programs

Special taxes programs encompass a broad range of activities and transactions. This section includes information regarding program revenue, significant program highlights, changes for the fiscal year, and the number of registrants for each program. More detailed information regarding the individual programs is found in the foldout tax chart inside the back cover of this report. The chart includes information on what is taxed, who pays, tax and fee rates, year-to-year revenue changes, and how tax revenues from each program are used on behalf of California's citizens.

Motor Vehicle Fuel License Tax

Motor vehicle fuel license tax collections totaled \$2.62 billion for 1999-00, based on the distribution of 14.72 billion gallons of gasoline. Program registrants numbered 448 at the end of the fiscal year.

Aircraft jet fuel tax. Aircraft jet fuel tax collections for the year totaled \$2.54 million, based on the distribution of 114.5 million gallons of jet fuel. As of June 30, 2000, 194 jet fuel dealers were registered with the Board.

Diesel and Use Fuel Taxes

Revenues from diesel and use fuel taxes totaled \$451.93 million for 1999-00, including \$54.36 million from the interstate user tax.

Diesel fuel tax. As of June 30, 2000, there were 33,743 businesses and individuals registered for the diesel fuel tax program. Most are registered for fuel tracking or refund purposes. One hundred

diesel fuel suppliers paid 98.15 percent of the 1999-00 diesel fuel tax receipts.

Interstate user tax. Most interstate motor carriers who travel on California highways pay the state's interstate user tax through the International Fuel Tax Agreement (IFTA), a compact among 48 states and 10 Canadian provinces. The vast majority of IFTA revenue is for diesel fuel use. California-based IFTA licensees numbered 11,192 at the end of the fiscal year. Carriers who travel only between California and Mexico also pay the interstate user tax. There were 1,138 of these carriers registered as of June 30, 2000. The interstate user tax rate dropped from 25.1 cents per gallon to 25 cents per gallon on January 1, 2000.

Use fuel tax. At the end of the fiscal year, 1,664 alternative fuel users and 257 fuel vendors were registered with the Board.

Oil Spill Response, Prevention, and Administration Fees

Oil spill response fee. The Oil Spill Response Trust Fund reached its \$50 million maximum level in 1991-92, and no response fees have been collected since then. Forty-five fee payers were registered at the end of 1999-00. The Board administers the fee in cooperation with the Department of Fish and Game.

Oil spill prevention and administration fee. Revenues collected in 1999-00 totaled \$18.39 million. Fiscal year-end registration listed 39 fee payers.

Underground Storage Tank Fee

Revenues totaled \$190.15 million in 1999-00. Registration for this fee, which the Board administers in cooperation with the Water Resources Control Board, was 7,609 fee payers as of June 30, 2000.

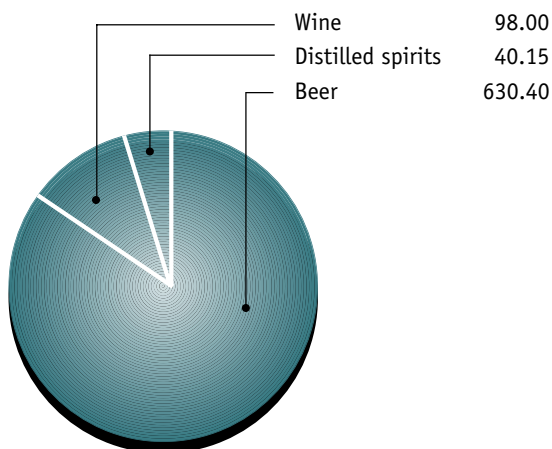
Childhood Lead Poisoning Prevention Fee

1999-00 fee collections totaled \$13.70 million. At the end of the fiscal year, 1,955 feepayers were registered with the Board.

Alcoholic Beverage Tax

In 1999-00, revenues from this excise tax totaled \$282.17 million, a 3.31 percent increase from 1998-99. Program registrants numbered 2,669 at the end of the fiscal year.

1999-00 Alcoholic Beverage Consumption
Millions of Gallons



Cigarette and Tobacco Products Tax

Revenues totaled \$1.22 billion in 1999-00, the first full fiscal year in which the tax increases mandated by Proposition 10 were in effect. The cigarette tax rate was 87 cents per package, while the tobacco products tax rate was 66.50 percent. At the end of June 2000, 1,638 taxpayers held permits under this program.

Emergency Telephone Users Surcharge

Total revenues for 1999-00 were \$106.01 million. As of June 30, 2000, 542 telephone service suppliers were registered with the Board.

Energy Resources Surcharge

Revenues totaled \$47.77 million in 1999-00, an increase of 8.06 percent from 1998-99. At the end of the fiscal year, program registrants included 109 electric utilities and 25 public institutions, water districts, and irrigation districts.

Insurance Tax

Revenue from this tax, levied against insurance companies in lieu of other specified taxes, totaled \$1.19 billion for 1999 business. As of June 30, 2000, 1,847 insurance companies were registered to pay the tax. The Board, the State Controller's Office, and the Department of Insurance jointly administer the program.

Tire Recycling Fee

Revenues totaled \$4.98 million in 1999-00. At fiscal year end, 7,743 businesses were registered for the program, which the Board administers in cooperation with the Integrated Waste Management Board.

Integrated Waste Management Fee

For 1999-00, revenues totaled \$46.32 million. As of June 30, 2000, 207 facilities were registered for the fee. The Board and the Integrated Waste Management Board share administrative responsibilities.

Hazardous Substances Tax

The Board administers five hazardous waste fee programs in cooperation with the Department of Toxic Substances Control. Fee revenues for 1999-00 and the number of businesses registered at the end of the fiscal year are shown below.

Activity fees. Revenue: \$187,000. Entities pay the fees based on permit applications and modifications and other applications. They are not required to maintain ongoing registration with the Board.

Disposal fee. Revenue: \$3.71 million; Registered facilities: 14.

Environmental fee. Revenue: \$26.36 million; Registered corporations: 48,365.

Facility fee and waste reporting surcharge. Revenue: \$4.77 million, including tiered permit fees for facilities that handle small quantities of waste; Program registrants: 156 facilities and 141 tiered permit facilities.

Generator fee. Revenue: \$17.25 million; Registrants: 7,766 fee payers with a total of 21,939 sites in the state.

Occupational Lead Poisoning Prevention Fee

Working with the California Department of Health Services, the Board collected revenues totaling \$2.44 million in fiscal year 1999-00. At the end of the fiscal year, 18,278 businesses were registered for the program.

Ballast Water Management Fee

Revenue for this new program, administered in conjunction with the State Lands Commission, totaled \$1.50 million for January through June 2000. At the end of the 1999-00 fiscal year, program registration totaled 561.

Operations

Staff in the Board's Excise Taxes, Fuel Taxes, and Environmental Fees divisions, located in the agency's Sacramento headquarters office, provide direct assistance to the businesses that pay special taxes and fees. The Board processed nearly 206,000 special taxes program returns during the 1999-00 fiscal year, including 80,228 environmental fees returns, 67,697 excise tax returns, and 58,056 fuel tax returns.

Audits

Staff in the Excise Taxes, Fuel Taxes, and Environmental Fees divisions have the primary responsibility for auditing special tax program accounts. This year, special tax program audits yielded more than \$35 million in net tax deficiencies. The audit staff identified more than \$6 million in refunds due.

Compliance Activities

Special Taxes Department staff ensure proper registering and licensing of businesses, assist taxpayers in interpreting tax and fee laws and regulations, and provide help with tax and fee returns. Compliance staff also collect delinquent tax and fee payments. Suspected tax evasion or fraud cases are referred to the agency's new Investigations Division.

Fuel Tax Compliance

Board staff work at California Highway Patrol (CHP) Truck Inspection Facilities enforcing the state's fuel tax laws. They ensure that motor carriers traveling into California without current fuel tax licenses or fuel trip permits are brought into compliance before they travel on the state's highways. Staff assess penalties for noncompliance and collect outstanding tax liabilities. In addition,

Board personnel at the CHP inspection facilities identify goods and equipment being shipped into California from out of state that may be subject to sales or use tax.

Cigarette Tax Compliance

Cigarette tax evasion is another area of serious tax compliance concern, made more complex by the increase in sales over the Internet. This year, the Board's Investigations Division produced a brochure for law enforcement agencies and district attorneys to help them identify and investigate cigarette tax evasion and other forms of tax fraud.

Appeals

Those who disagree with special taxes program audit results or other Board decisions regarding the application of a tax or fee may seek resolution through the Board's administrative appeals process. For details on 1999-00 appeals, see the "Appeals" chapter, which begins on page 47.

The agency offers an administrative settlement program as an alternative method of tax and fee dispute resolution. In 1999-00, the Board approved 12 special taxes or fees cases for settlement. The total settlement amount was \$330,000.

Court Decisions

Statute of Limitations to Collect Use Fuel Tax

The federal ninth Circuit Court of Appeals held that an action for the collection of use fuel tax is timely if it is brought within three years after the Board's final determination that tax is due. In this case, the Board had not issued a final determination for unpaid use fuel taxes. Therefore, the three-year limitations period had not begun and the proof of claim filed in the bankruptcy

proceeding was not barred. In addition, the claim could be allowed as a contingent claim for the debtor's pre-bankruptcy petition actions.

In re Cool Fuel, Inc. v. State Board of Equalization
(9th Cir. 2000) 210 F.3d 999

Legislation

Insurance Tax Credit

Creates an insurance tax credit for companies that invest in a community development financial institution that lends to California urban, rural, or reservation-based communities.

Assembly Bill 145, Chapter 821, Statutes of 1999; effective October 10, 1999

New Ballast Water Fee

Establishes a ballast water fee to fund programs to prevent the further introduction and spread of non-native aquatic nuisance species and requires the Board to collect the fee from owners and operators of certain oceangoing vessels.

Assembly Bill 703, Chapter 849, Statutes of 1999; effective January 1, 2000

Insurance Tax Housing Investment Credit

Permanently increases to \$50 million the annual, aggregate insurance tax credit granted by the California Tax Credit Allocation Committee for investments in qualifying low-income housing projects.

Assembly Bill 1626, Chapter 3, Statutes of 2000; effective February 23, 2000

Expanded California Taxpayers' Bill of Rights

This bill, in part

- Allows the Board, for purposes of processing tax and fee returns, to establish a uniform policy regarding a postal delay date.



- Authorizes the Board to relieve interest where the failure to pay tax is due to the agency's unreasonable error or delay.
- Authorizes the Board to enter into a written installment payment agreement and to provide for advance notice of termination of the agreement in specified circumstances.
- Specifies when interest shall begin to accrue following the issuance of a notice of determination for repayment of an erroneous refund.
- Revises requirements for the Board's education and information program for taxpayers and employees.
- Specifies that a taxpayer entitled to reimbursement for reasonable fees and expenses related to a hearing before the Board must file a claim for the fees and expenses within one year of the date of the Board's final decision, and places on Board staff the burden of establishing that the agency's position was substantially justified.
- Authorizes the Board to return levied property in specified circumstances.
- Amends the Underground Storage Tank Maintenance Fee Law to authorize the Board to grant relief of the finality penalty, in conformity with all other tax and fee laws.

Assembly Bill 1638, Chapter 929, Statutes of 1999; effective January 1, 2000

Recyclable Hazardous Wastes

Requires higher disposal fees on Department of Toxic Substances Control-identified recyclable hazardous wastes when those wastes are disposed of rather than recycled.

Senate Bill 606, Chapter 745, Statutes of 1999; effective January 1, 2000

"For Export Only" Cigarettes

Requires the Board to revoke the license issued to a cigarette distributor and to seize the distributor's cigarette packages if the packages are

- Labeled "For Export Only," U.S. Tax Exempt," "For Use Outside U.S.," or similar wording indicating that the manufacturer did not intend that the product be sold in the United States;
- Altered by adding or deleting the wording, labels, or warnings; or
- Imported into the United States after January 1, 2000, in violation of section 5754 of title 26 of the United States Code.

Senate Bill 702, Chapter 935, Statutes of 1999; effective October 10, 1999

Tobacco Manufacturers Master Settlement Agreement

Authorizes the Board to adopt any regulations necessary to determine, based on the amount of excise tax paid on cigarettes, the number of cigarettes sold by tobacco products manufacturers who do not participate in the federal tobacco products settlement.

Senate Bill 822, Chapter 780, Statutes of 1999; effective January 1, 2000

Underground Storage Tank Fee Extension

In part, extends the sunset date on the underground storage tank fee from January 1, 2005, to January 1, 2011.

Senate Bill 989, Chapter 812, Statutes of 1999; effective January 1, 2000

Imported Cigarettes

Prohibits the affixing of a California cigarette tax stamp to a cigarette package that bears a brand name that is a registered United States trademark of a manufacturer that participates in the Master Settlement Agreement between the states and tobacco companies if the package was imported by anyone other than the participating manufacturer.

Senate Bill 1038, Chapter 18, Statutes of 2000; effective May 5, 2000

Board-Sponsored Housekeeping Measure

This bill, in part

- Clarifies that payments made to a Certified Unified Program Agency for the previous year are eligible for the generator fee refund.
- Adds references to tobacco products that conform to cigarette tax provisions.
- Allows the Board to require tire recycling fee payers to report taxes on other than a quarterly basis.
- Authorizes the Board to release to an underground storage tank owner otherwise confidential information obtained from the supplier of an underground tank operator, since the owner is responsible for paying the underground storage tank fee.

This measure also authorizes the Board to seize cigarettes that violate the restriction on selling “for export only” cigarettes in California.

Senate Bill 1231, Chapter 941, Statutes of 1999; effective January 1, 2000

Tax-Paid Fuel Purchases

Allows a qualified motor vehicle fuel distributor to seek a refund when it sells tax-paid fuel to a distributor who is not qualified to obtain tax-exempt motor vehicle fuel.

Senate Bill 1302, Chapter 865, Statutes of 1999; effective January 1, 2000

Regulations

Motor Vehicle Fuel License Tax

Qualified Distributors

Regulation 1108, *Qualified Distributor*, was adopted to explain the conditions a distributor must meet in order to be granted authorization to operate as a qualified distributor and therefore be able to acquire motor vehicle fuel without paying tax. The regulation clarifies the amount of security required to assure payment of the tax and that the security is a combination of a bond and real property. The regulation also sets forth the grounds and procedure for rescinding the authorization.

Title 18, California Code of Regulations, section 1108; effective September 25, 1999

Out-of-State Shipments

Regulation 1132, *Shipments Out of the State*, was amended to interpret and implement changes occasioned by (1) the repeal of Revenue and Taxation Code sections 7402, 7403, 7404, and 7407, which required a person exporting motor vehicle fuel to file a Certificate of Export with the Board, and (2) the amendment of Revenue and Taxation Code section 8105 extending the statute of limitations for filing claims with the state controller for refund of taxes paid on the purchase of motor vehicle fuel that is exported. The amendment to the regulation clarifies the time limit for claiming a tax credit on tax-paid fuel that is exported, specifies when claims for refund must be

filed with the state controller, removes the requirement to file export certificates with the Board, and specifies the documentation required to support an exemption or credit for exported tax-paid fuel.

Title 18, California Code of Regulations, section 1132; effective February 20, 2000

Underground Storage Tank Maintenance Fee

Implementing Regulations

Definitions

Regulation 1201, *Definitions*, was adopted to specify definitions for fee administration.

Liability for Fee

Regulation 1212, *Liability for Fee*, describes when an owner is liable for the fee and clarifies that the fee is due even if the petroleum was previously placed in the same or another tank, or was placed in the tank in violation of an agreement between the owner and operator.

Payment of Fee by Operator

Regulation 1213, *Payment of Fee by Operator*, specifies the procedures for transferring a tank operator's payment to a tank owner's account, as well as the procedures for requesting that the Board send the owner's fee notices and returns to an operator who will pay the fee on the owner's behalf.

Exempt Entities

Regulation 1220, *Exemption from Fee*, specifies which entities are not subject to the fee.

Relief from Liability

Regulation 1248, *Relief from Liability*, specifies conditions under which, consistent with Revenue and Taxation Code section 50112.5, a feepayer will be relieved of liability for the fee, penalty, and interest because the feepayer relied on incorrect written advice from the Board. The regulation defines "written advice" and clarifies when advice

given by the Board in a prior audit constitutes "written advice."

Records

Regulation 1271, *Records*, describes required records, the manner in which records may be maintained, time frames and agreements for record retention, and penalties or other actions that may result from failure to provide and maintain records as required.

Title 18, California Code of Regulations, sections 1201, 1212, 1213, 1220, 1248, and 1271; effective January 8, 2000

Use Fuel Tax

Bad Debt Losses

Regulation 1331.6, *Credit for Bad Debt Losses of Vendors*, was amended to explain that vendors are allowed to take a credit on their returns for accounts found to be worthless. References to wholesalers, who no longer pay the tax, were deleted.

Title 18, California Code of Regulations, section 1331.6; effective September 29, 1999

Records

Regulation 1332, *Records*, was amended to describe the records required of those who use, deal in, transport, or store use fuel in California. The regulation explains supporting documentation for automated accounting systems and requirements for records reproduced on microfilm and microfiche and specifies record requirements for use fuel user and vendor transactions. The regulation also specifies record-retention and availability requirements. Regulation 1333 was repealed, and its record-related language was incorporated into Regulation 1332.

Title 18, California Code of Regulations, section 1332; effective September 29, 1999

Emergency Telephone Users Surcharge

Definitions

Regulation 2401, *Definitions*, was amended to specifically define a “billing aggregator.” This amendment addresses a change in telephone industry billing practice that followed industry deregulation.

Title 18, California Code of Regulations, section 2401; effective May 27, 2000

Liability for Surcharge

Regulation 2406, *Liability for Surcharge Remitted by Billing Aggregator or Billed through Billing Agents*, was amended to address a change in telephone industry billing practice that followed industry deregulation. The regulation clarifies that while the service supplier remains liable for collecting and paying the surcharge, the supplier can contract with a billing aggregator to perform these functions on its behalf. The regulation addresses the situation in which a service supplier may use a billing aggregator for some, but not all, of its collections. The regulation also authorizes

the billing aggregator to file a single return each reporting period on behalf of multiple service-supplier clients, to pay the surcharge with a single check, and to provide information about the individual service-supplier clients upon Board request.

Title 18, California Code of Regulations, section 2406; effective May 27, 2000

Hazardous Substances Tax

Hazardous Waste Generators

Regulation 3000, *Generator of Hazardous Waste*, was adopted to interpret and explain the Hazardous Substances Tax Law as it applies to generators of hazardous waste and the hazardous waste generator fee. The regulation clarifies the statutory definition of a generator and explains how to determine the period during which waste was generated. The regulation also clarifies which entities and types of hazardous waste are exempt from the fee.

Title 18, California Code of Regulations, section 3000; effective October 8, 1999